

AMENDED IN SENATE APRIL 18, 2006

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1492

Introduced by Senator Speier

February 23, 2006

An act to ~~add Section 758.6 to the Insurance Code~~, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, as amended, Speier. Automotive body repair: insurance claims.

The Automotive Repair Act provides for registration and licensing of automotive repair dealers by the Bureau of Automotive Repair in the Department of Consumer Affairs. Existing law prohibits automobile insurers from requiring an insured to repair an automobile at a particular automotive repair dealer, and imposes various requirements on insurers in that regard and with respect to other related matters.

This bill would express the intent of the Legislature to create an improved legal environment for the fair and rapid resolution of disputed automobile body repair claims.

~~This bill would provide that a claimant may present to an insured 3 or more written estimates of repair of a vehicle from licensed auto body repair dealers chosen by the claimant. If the average of these estimates is accepted by the insurer, a rebuttable presumption that that amount is fair and equitable for the purposes of examinations would be created. If the average is not accepted by the insurer, a rebuttable presumption that the average is fair and equitable in a small claims action filed by the claimant would be created.~~

~~This bill would also provide that a claimant may offer to settle a claim for repair based on one or 2 estimates, as specified, however, no rebuttable presumption for an examination or small claims action would be raised.~~

~~This bill would further provide that a claimant is not required to present 3 or more written estimates for the purposes of determining a fair and equitable settlement amount.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature to create an*
2 *improved legal environment for the fair and rapid resolution of*
3 *disputed automobile body repair claims.*

4 ~~SECTION 1. Section 758.6 is added to the Insurance Code, to~~
5 ~~read:~~

6 ~~758.6. A claimant may present to an insurer three or more~~
7 ~~written estimates of repair of a vehicle from licensed auto body~~
8 ~~repair dealers chosen by the claimant. The average cost of repair~~
9 ~~across all of the written estimates, if accepted by the insurer,~~
10 ~~shall create a rebuttable presumption that the offer of settlement~~
11 ~~in the amount of the average is fair and equitable for purposes of~~
12 ~~examinations conducted pursuant to Section 790.04 and, if not~~
13 ~~accepted by the insurer, for purposes of any cause of action filed~~
14 ~~in small claims court by the claimant. Nothing within this section~~
15 ~~shall preclude a claimant from offering to an insurer an amount~~
16 ~~in the fair settlement of a claim based upon one or two written~~
17 ~~estimates of repairs from licensed auto body repair dealers of the~~
18 ~~choice of the claimant, but no rebuttable presumption of a fair~~
19 ~~and equitable offer of settlement shall attach to such estimates for~~
20 ~~purposes of the examinations conducted pursuant to Section~~
21 ~~790.04 or for purposes of a cause of action filed in small claims~~
22 ~~court by the claimant. Nothing within this section shall compel a~~
23 ~~claimant to present, for purposes of determining a fair and~~
24 ~~equitable settlement amount, three or more written estimates of~~
25 ~~repair.~~

O